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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,899	07/25/2001	Hideyuki Masuyama	980756D/LH	8238
1933	7590	07/02/2003	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 767 THIRD AVENUE 25TH FLOOR NEW YORK, NY 10017-2023			PRITCHETT, JOSHUA L	
ART UNIT		PAPER NUMBER		
2872				

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/912,899	MASUYAMA, HIDEYUKI
	Examiner	Art Unit
	Joshua L Pritchett	2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 May 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 17 and 20 is/are pending in the application.

4a) Of the above claim(s) is/are withdrawn from consideration.

5) Claim(s) is/are allowed.

6) Claim(s) 17 and 20 is/are rejected.

7) Claim(s) is/are objected to.

8) Claim(s) are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 July 2001 is/are: a) accepted or b) objected to by the Examiner.

DETAILED ACTION

This action is in response to the Election of claims 17 and 20 filed May 27, 2003.

Election/Restrictions

Claims 16, 18-19 and 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawasaki (US 4,661,692).

Kawasaki discloses a microscope electronic camera (61-63) with changeable setting observation conditions. Kawasaki discloses the device having an imaging element (61), a recognition means for recognizing a change in the observation conditions (61-65 and 67-85) and

magnification (70-71) (Fig. 3, CPU 51 is linked to all recognition means), a signal processing means (51) for processing an image signal output (Fig. 3, CPU 51 is linked to image pickup device 61) with information from the recognition means (Fig. 3), an a filter coefficient changing means (80) connected to the signal processing means (Fig. 3). Kawasaki further discloses the filter coefficient changing means determines the contour and accentuation in accordance with the information from the recognition means and includes a circuit (Fig. 3). The recognition means of Kawasaki transmit information to the CPU that tell the processor how each piece of equipment in the system is operating (col. 19-25), thus relaying the observation conditions based on the performance of all the elements in the system.

Response to Arguments

Applicant's arguments filed March 11, 2003 have been fully considered but they are not persuasive.

The arguments presented by the applicant in reference to claims 16, 18-19 and 21 have not been considered by the examiner due to the restriction requirement in Paper No. 10 and subsequent election of claims 17 and 20 in Paper No. 11.

On page 10-11 of Amendment C, the applicant argues that the neutral density filter of Kawasaki does not meet the claim limitations of changing the contour accentuation. The neutral density filter of Kawasaki is capable of adjusting the brightness of the light, as admitted in on page 11 of Amendment C. Thus the neutral density filter of Kawasaki is capable of creating a gray scale image to be displayed. The claims do not state that the image produced must be in a

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variety of colors and therefore an image produced in shades of any one color, as is done by a neutral density filter, meets the claim limitations.

On page 11 of Amendment C, applicant argues that the neutral density filter cannot control the color temperature. Changing the color temperature is not part of the claim limitations therefore this argument is not given patentable weight.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

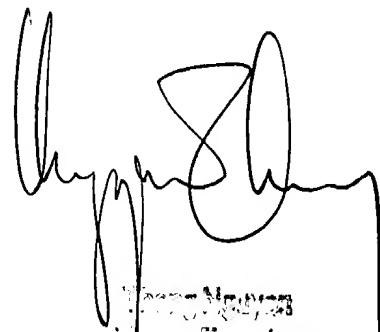
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 703-305-7917. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 703-305-0024. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JLP
June 25, 2003



Joshua L. Pritchett
USPTO
6/25/03